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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,523	01/02/2004	Aldo Y. Guloy	23700.00	8699
37833	7590	11/16/2006		
LITMAN LAW OFFICES, LTD PO BOX 15035 CRYSTAL CITY STATION ARLINGTON, VA 22215			EXAMINER DANIELS, MATTHEW J	
			ART UNIT	PAPER NUMBER
			1732	

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,523

Applicant(s)

GULOY, ALDO Y.

Examiner

Matthew J. Daniels

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 2,8,14 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9-13,15 and 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/2/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. **Claims 1, 3-7, 9-13, 15, 17-19**, drawn to a method of making, classified in class 264, subclass 553.
 - II. **Claims 2, 8, 14, 16**, drawn to a flower pot, classified in class 47, subclass 41.01.

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the flower pot can be made by another and materially different process, such as stereolithography or slush casting.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, recognized divergent subject matter, and because the search required for each of Groups I and II is different, restriction for examination purposes as indicated is proper.

During a telephone conversation with Arthur Donnelly on 31 January 2006, acting on behalf of Richard Litman, a provisional election was made with traverse to prosecute the invention of Group I, claims 1, 3-7, 9-13, 15 and 17-19. Affirmation of this election must be made by applicant in replying to this Office action. Claims 2, 8, 14, and 16 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1, 3, 4, 6, 9, 15 and 17** are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Snyder (USPN 3225461). **As to Claim 1**, Snyder teaches a method of manufacturing an article having an outer peripheral surface with embossed decorations, comprising the steps of:

forming a female mold cavity (Fig. 1), the mold cavity having walls and contours disposed on the walls (Fig. 5), the contours corresponding to a desired embossed design (Fig. 5); and

vacuum forming an article in the mold, the article having embossed decorations on the outer peripheral surface of the article (Fig. 5).

Snyder is silent to the intended use as a decorative flower pot, however, the article of Snyder could inherently be used as a decorative flower pot, and in the alternative, it would

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have been prima facie obvious to the ordinary artisan to provide a flower pot shape and contour.

As to Claim 3, Snyder clamps and heats (3:45-75). **As to Claim 4**, Snyder teaches that the plastic sheet is clamped while it is heated to an elastic state (3:45-75). **As to Claim 6**, Snyder removes air by vacuum to form an embossed design on the outer peripheral surface of an article that could inherently be used as a flower pot (Fig. 5), or shaped to any other appropriate or desired shape. **As to Claim 9**, the article of Snyder is interpreted to have a plurality of sides and contours (Fig. 5).

As to Claim 15, Snyder teaches a method of forming an article (Fig. 5) and has an undistorted image disposed on the outer peripheral surface (3:15-20), comprising the steps of:

Providing a plastic sheet having upper and lower surfaces (Figs. 1 and 2);

Forming a compressed image on at least a portion of the lower surface, the image being a visually distorted representation of a desired pattern (3:15-20);

Clamping the plastic sheet in a frame (Fig. 2);

Heating the sheet (4:45-75)

Placing the plastic sheet and frame over the female mold cavity in an elastic state (3:45-75);

Removing the air by a vacuum forming process, forcing the heated plastic sheet against the walls and contours of the mold cavity (Fig. 2),

Whereby an article is formed having an undistorted image of a desired pattern on the outer peripheral surface (Fig. 5).

Snyder is silent to the intended use as a decorative flower pot, however, the article of

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Snyder could inherently be used as a decorative flower pot, and in the alternative, it would have been prima facie obvious to the ordinary artisan to provide a flower pot shape and contour.

As to Claim 17, Snyder compensates for distortion undergone when stretched (3:15-20).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder (USPN 3225461) in view of Gravely (USPN 2015669)). **As to Claim 5**, Snyder teaches that printing onto formed surfaces is known (1:34-38), but Snyder is silent to the claimed rotational offset printing process. However, Gravely teaches rotational offset printing onto shaped articles, and further that the offset printing method are the preferred method (Page 2, right column, lines 56-66). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Gravely into that of Snyder because the offset printing process lends itself to large scale automatic or semi-automatic machine operations, which would increase the efficiency of the method of Snyder by replacing hand operations.

4. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder (USPN

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3225461) in view of Wang (USPN 5871834). Snyder teaches the subject matter of Claim 1 above under 35 USC 102(b), or in the alternative, under 35 USC 103(a). **As to Claim 7**, Snyder is silent to the embossed design on a wrapper. However, Wang provides a embossed wrapper having substantially the same contour as a vacuum thermoformed part (2:5-15 and 2:50-56) so that the cover engages the part when laid upon it (Figs. 3 and 5), and bonding the inner surface of the wrapper to the surface of the article (2:50-55). Both Snyder's part and the cover of Wang are interpreted to be undistorted by the vacuum forming process. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Wang into that of Snyder in order to provide an overlay that enhances the visual appearance of the article (1:35-50).

5. **Claims 10-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder (USPN 3225461) in view of Wang (USPN 5871834).

As to Claim 10, Snyder teaches a method of providing an article that could be used as a flower pot having a decorative exterior, comprising the steps of:

vacuum forming an article that could be used as a flower pot having an outer peripheral surface (3:45-75); and

a decorative article is formed (Fig. 5) which could be used as a flower pot, the article having a decorative design disposed on the outer peripheral surface, the design being undistorted by the vacuum forming process (3:15-20).

Snyder is silent to the other claimed steps, namely forming a wrapper and bonding. However, these aspects would have been obvious over Wang, who teaches a decorative article

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overlaid with iridescent film (Figs. 2 and 3) and being bonded (2:42-56). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Wang into that of Snyder in order to provide an overlay that enhances the visual appearance of the article (1:35-50).

As to Claim 11, Snyder's method forms an embossed design on the outer peripheral surface of an article that could be used as a flower pot (Fig. 5). **As to Claim 12**, Wang embosses a design on the wrapper (2:9-15 and 2:50-56). **As to Claim 13**, Snyder produces an article by vacuum forming having a plurality of sides and contours (Fig. 5).

6. **Claims 18 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder (USPN 3225461) in view of Johnson (USPN 4192166). Snyder teaches the subject matter of Claim 15 above under 35 USC 102(b), or in the alternative, under 35 USC 103(a). **As to Claims 18 and 19**, Snyder clearly suggests compensating for distortion, but is silent to the claimed grid method. However, the grid method claimed is conventional in the forming arts and is taught by Johnson. Johnson imprints a grid having a multitude of identifiable sections and forms the imprinted sheet and forms an article from the sheet having a grid, determining the degree of distortion, transposing the degree of distortion to other sheets, whereby a compressed image on a portion of the lower portion of the sheet is formed (2:49-4:48). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Johnson into that of Snyder in view of Snyder's clear suggestion to compensate for distortion (3:15-20).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJD 11/6/06

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CHRISTINA JOHNSON
SUPERVISORY PATENT EXAMINER

11/13/06